



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Trend Western Technical Corporation

File: B-227102

Date: August 26, 1987

DIGEST

There is no merit to the protester's contention that the agency was required to select its low-cost proposal for base operations services for comparison with the estimate of the cost of government performance where the solicitation for a cost-type contract provided that technical factors would be significantly more important than cost in selecting the proposal most advantageous to the government and the protester's proposal was at best minimally acceptable and its proposed costs were substantially understated.

DECISION

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Trend Western Technical Corporation protests a determination by the U.S. Army under Office of Management and Budget (OMB) Circular No. A-76 to maintain in-house performance of base operations services at Fort Douglas, Utah. The Army based its determination on a comparison of the costs of in-house performance with the costs of contractor performance as determined under request for proposals (RFP) No. DAKF06-85-R-0143. We deny the protest in part and dismiss it in part.

The RFP sought offers to staff, manage, operate, and administer a variety of operations at the Fort--such as warehouse operations, audiovisual services, and the motor pool--under a cost-plus-award-fee contract. The solicitation informed prospective offerors that after selection of the proposal determined to be most advantageous to the government the agency would compare the cost of contractor performance with the previously prepared estimate of the cost of government performance. The agency would award a contract only if this comparison indicated that contractor performance would be more economical. The solicitation listed technical, management, quality control, and cost as

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the factors to be used in selecting the most advantageous proposal, with technical being approximately twice as important as any one of the other three factors. The RFP listed management and quality control as being equal in importance.

The agency received four proposals in response to the RFP. It decided to include all proposals in the competitive range and conducted discussions with the offerors. Following receipt of best and final offers, the agency selected the proposal submitted by J&J Maintenance as being the most advantageous to the government. That firm's proposed costs were \$14,103,659, to which the agency added for purposes of the A-76 comparison a conversion differential of \$688,938. The total of \$14,792,597 exceeded the estimate of \$8,807,553 for in-house performance, and the agency therefore decided not to contract for the required services.

The protester's position is that the agency was required to select its proposal for comparison with the estimate of in-house performance because its proposal was acceptable and the firm's proposed cost of performance, \$7,956,383, was far less than that of J&J Maintenance. In this regard, the protester notes that the agency included its proposal in the competitive range, invited the firm to submit a best and final offer, and has stated only that the firm's proposal was not "as acceptable" as J&J's. According to the protester, the acceptable proposal offering the lowest proposed cost was required to have been selected for the cost comparison. The selection of a higher-cost proposal in this case, argues the protester, indicates that the agency failed to consider cost in making the source selection.

The solicitation clearly did not provide for selection of the lowest-cost, technically acceptable proposal. Rather, the solicitation provided for selection of the proposal determined to be the most advantageous to the government, with combined technical factors (technical, management, and quality control) being significantly more important than cost in making this determination. The fact that the solicitation was for an OMB A-76 cost comparison does not necessarily mean that the low-cost offeror must be chosen for the comparison. See Lear Siegler, Inc.--Reconsideration, B-217231.2, May 30, 1985, 85-1 CPD ¶ 613. In this regard, OMB's Cost Comparison Handbook, IV-35, merely states that when, as here, a cost-plus-award-fee contract is contemplated, the comparison is to be based on the fixed portion of the fee plus the contract costs of the offer determined to be most advantageous to the government. The most advantageous proposal is selected in accordance with normal contracting procedures. Federal Acquisition Regulation, 48 C.F.R. § 7.306(b) (1986). If the protester disagreed

with the announced formula for selecting a proposal for the cost comparison it should have raised its objection at an earlier point in the process. In this connection, our Bid Protest Regulations provide that a protest based on an alleged impropriety apparent in a solicitation must be filed, either with the agency or this Office, prior to the closing date for receipt of initial proposals. 4 C.F.R. § 21.1(a) (1987). To the extent that Trend Western objects to the evaluation scheme as not properly emphasizing cost, its protest is dismissed.

We find no indication that the agency did not consider proposed costs or that it otherwise departed from the announced evaluation criteria in making its source selection.^{1/} The agency's evaluators rated the proposal from J&J Maintenance as excellent or satisfactory for most evaluation factors and subfactors; the proposal received an overall technical rating of 76.1 on a 100-point scale. The proposal from Trend Western, on the other hand, received mostly ratings of marginal or unacceptable and an overall technical score of 22.1. A frequent criticism of the proposal was its failure to provide an adequate level of supervisory staff.

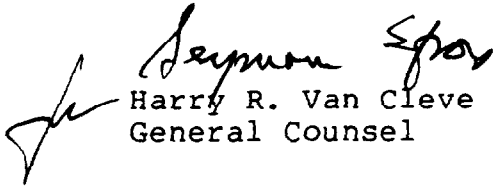
With respect to cost, the record shows that in accordance with the RFP's evaluation criteria, which stated that cost realism would be evaluated, the agency calculated a "most probable cost" (MPC) figure for each offeror. This figure was based on the offeror's proposed costs with adjustments for cost realism as well as for whatever increases or decreases in proposed staffing levels the agency believed were appropriate. The MPC for J&J was \$12,812,358, while the MPC for Trend Western was \$11,036,959. The source selection official noted that the MPC for J&J represented the least variance from proposed costs among the offerors, which indicated the firm had the best understanding of the total contract requirements. The official also noted J&J's superiority in the technical areas.

In short, the agency's selection of the most advantageous proposal was consistent with the evaluation criteria listed in the solicitation, and the protester's proposal was not

^{1/} The agency did not provide the protester with all of the evaluation documents it provided to this Office based on its contention that they are "procurement sensitive." We have examined these documents in camera.

entitled to selection merely because it may have been minimally acceptable and proposed the lowest performance costs.

The protest is denied in part and dismissed in part.


Harry R. Van Cleve
General Counsel